

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

NOTICE OF WITHDRAWAL OF MOTION AND RESERVATION OF RIGHTS

Pursuant to the Court’s order of July 17, 2024, ECF 167 (“Order”) disallowing omnibus motions, the United States hereby withdraws its July 16, 2024, Consolidated *Daubert* Motion To Exclude Select Experts, ECF No. 165. The United States will instead file a *Daubert* motion to exclude one of Texas’s twelve experts while reserving its rights to file further such motions for the reasons discussed below.

The United States’ proposal that each party file no more than two additional motions to be addressed at the July 25 hearing was premised on being able to address multiple experts in a single filing. The United States viewed an omnibus motion (of no more than 10 pages, consistent with local rules, *see* ECF 158 at 2) as striking the appropriate balance between allowing the United States a fair opportunity to challenge Texas’s multiple experts and avoiding overburdening the Court.

Because the United States proposed a filing deadline of July 16 for motions to be heard on July 25, the United States filed its omnibus *Daubert* motion that day. ECF 165. The Court

subsequently ruled that “[e]ach party may file no more than two additional *Daubert* and/or discovery motions” but declined the proposal to allow omnibus motions. Order at 2. The Court further recognized that “Judge Ezra will retain the discretion to entertain motions filed after the deadlines” set in the Order, including “motions in limine, [and] motions to exclude witnesses.” *Id.* at 3 (citing Scheduling Order, ECF 97).

The United States should not be limited to challenging only one expert when Texas has designated twelve. The United States thus reserves the right to file further *Daubert* motions and/or motions in limine by the pretrial motions deadline of July 26, 2024.

Respectfully submitted,

Dated: July 17, 2024

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CERTIFICATE OF SERVICE

I certify that on July 17, 2024, counsel for Defendants were served with a copy of this Notice by the CM/ECF System.

/s/ Andrew D. Knudsen
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